
BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

JOANNE LYNNE SAVERCOOL,

Respondent.

ORDER OF DEFAULT

Docket No. 2018-4047

Lisa Watts Baskin
Administrative Law Judge

This matter came before the undersigned on December 12, 2018, at 10:00 a.m., MST, for a scheduled evidentiary hearing. The matter was recorded. Respondent Joanne Savercool, *pro se*, (hereafter “the Respondent”), failed to appear by telephonic conference call to participate in the hearing. Ms. Helen Frohlich, Assistant Attorney General, appeared in person for the Utah Insurance Department, Complainant. The evidentiary hearing was set by proper notice on November 15, 2018, at a status conference, wherein both parties were present.¹

Respondent failed to participate by telephone at the scheduled time, 10:00 a.m. MST and 12:00 p.m. EST. The Court requested Ms. Jeanine Couser (hereafter “the clerk”) to attempt to contact Respondent directly when it was apparent Respondent had not shown. There was no objection. The clerk left voice messages at Respondent’s work and home telephone numbers

¹ The designation of times by MST and EST were not included on the Scheduling Order however.

which Respondent had provided. The Complainant, witness, and the Court waited twenty minutes for Respondent to respond which she failed to do.²

Complainant moved for a default order and dismissal with prejudice. Utah Code § 63G-4-209 permits the presiding officer to issue an order of default when a party fails to participate after receiving proper notice. Complainant also moved for the forfeiture action to be upheld. The Court took the motion under advisement. R. at 0:01-3:05.

On December 14, 2018, at 1:30 p.m., the Court held a *sua sponte* scheduled telephonic conference. Both parties were present, punctual, and sworn in. Respondent was given the opportunity to explain why she missed the scheduled hearing. The matter was not recorded. Upon sworn testimony, Respondent stated she did not receive the telephonic messages because her husband deleted the one left at her home on December 11, 2018, and she did not retrieve the voice messages left by the clerk on December 12, 2018, because her voice mail contained too many voice messages already. Upon sworn testimony, the clerk testified about her actions the day before and the day of the hearing. At the hearing, Ms. Frohlich, Complainant's counsel requested that her motion to dismiss, default and affirm forfeiture still stood because Respondent provided no good caused for her failure to appear.

Based upon the foregoing procedural facts, and for good cause, the undersigned enters the requested relief for Respondent's failure to participate in the evidentiary hearing.

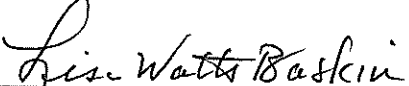
THEREFORE, an **ORDER OF DEFAULT** is entered, and this matter is **DISMISSED WITH PREJUDICE**.

² As a courtesy, the clerk also notified Respondent two evenings before the hearing, December 10, 2018, to clarify that the proper time for Respondent to call in was 12:00 p.m. EST. Declaration of Jeanine Couser, ¶¶ 1, 2, and 3.

THEREFORE, the Department's decision to fine Respondent \$500.00 for submitting her September 30, 2018 application with an incorrect response in violation of Utah Code § 31A-23a-105(2)(b)(i)(A) is **AFFIRMED**. The case is closed.

DATED this 17th day of December, 2018.

TODD E. KISER
UTAH INSURANCE COMMISSIONER



Lisa Watts Baskin
Administrative Law Judge
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114

DECLARATION

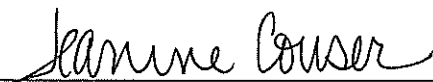
Under criminal penalty of Utah law, I, Jeanine Couser, declare the following:

1. I am currently employed as an administrative assistant/law clerk with the Utah Insurance Department (Department) where my responsibilities include assisting the Administrative Law Judge.
2. I submit this Declaration as evidence in the matter of Utah Insurance Department vs. Joanne Lynne Savercool, Docket No. 2018-4047.
3. Based on my personal knowledge, and/or based on the facts appearing in the Department's records and files, the following facts are true:
 - a. On November 7, 2018, I certified that an Order of Conversion to Formal Proceeding and Notice of Prehearing Telephone Conference had been emailed to Respondent and Helen Frohlich, Assistant Attorney General. The prehearing telephone conference was scheduled for November 15, 2018, at 1:00 p.m. MST / 3:00 p.m. EST. (The Department is located in Utah, and Respondent lives in Pennsylvania.) The Order included instructions for calling in to the Department.
 - b. On November 15, 2018, Respondent called in for the prehearing telephone conference. After the hearing was concluded, I certified that a Scheduling Order was emailed to Respondent and Helen Frohlich. A telephonic evidentiary hearing was scheduled for December 12, 2018, from 10:00 a.m. to 1:00 p.m. The Order included instructions for calling in to the Department.
 - c. On December 10, 2018, I was preparing an attendance list for the upcoming evidentiary hearing and accessed the Scheduling Order. The time for the hearing

wasn't specific to Eastern Standard Time. I asked Judge Baskin if I should contact Respondent and clarify that the hearing would begin at 12:00 p.m. EST and she agreed.

- d. I first called Respondent's work telephone number (xxx-xxx-1165), and her voice mail stated she would be out of the office until December 11, 2018. I then called Respondent's home telephone number (xxx-xxx-6295) and left a message that the hearing on December 12, 2018, was scheduled for 10:00 a.m. MST, which would be 12:00 p.m. EST.
- e. On November 12, 2018, at 10:00 a.m. MST, Judge Baskin, Helen Frohlich, Bill Stimpson, and I were in the courtroom waiting for Respondent to call in. We waited for approximately five to ten minutes; the Judge then asked me to call the Respondent. I called her work telephone number and home telephone number and left messages at both. I indicated that the Judge was ready for the hearing to begin and that we needed Respondent to call. Respondent did not call back. The hearing was adjourned at 10:20 a.m. MST.

DATED this 17th day of December, 2018.



Jeanine Couser
Administrative Assistant/Law Clerk
Utah Insurance Department

AGENCY REVIEW

To appeal this Order, a party must file a petition for agency review within 30 days from the date of this Order. Petitions for agency review shall be filed in accordance with Utah Code Ann. §§ 63G-4-301 and filed with the commissioner in writing or electronically at uidadminscases@utah.gov. Failure to file a petition for agency review is a failure to exhaust administrative remedies and will result in the order becoming final.